

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF ROBERT M. LINSOTT from the decision of the Board of Equalization of Bonner County for tax year 2007.) APPEAL NO. 07-A-2363
) FINAL DECISION
) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing October 17, 2007, in Sandpoint, Idaho before Presiding Officer Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Robert M. Linscott appeared. Assessor Jerry Clemons and Residential Supervisor Jeri Peterson appeared for Respondent Bonner County. This appeal is taken from a decision of the Bonner County Board of Equalization modifying the protest of the valuation for taxing purposes of property described as Parcel No. RP002500000010A.

The issue on appeal is the market value of a residential lot.

The decision of the Bonner County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$205,321, and the improvements' valuation is \$ 2,744, totaling \$208,065. Appellant requests the land value be reduced to \$81,607, and the improvements' value remain the same at \$2,744, totaling \$84,351. At hearing, Appellant amended the value claim to between \$82,000 and \$122,974.

The subject property is a vacant waterfront lot located on the south side of the Pend Oreille River. Subject has 89.27 feet of waterfront and was assessed for \$2,300 per front foot.

According to Appellant, subject is not within the boundaries of the south side sewer district as the Respondent claimed. It was further explained the Panhandle Heath District states "site is not suitable for a subsurface sewage disposal system. The lot cannot meet the setback requirement from surface for an A-1 type soil."

Appellant contended the lot is unbuildable under Title 12 Chapter 9 of Suburban District (zoning regulation). The minimum buildable lot must be at least 12,000 square feet in size when all services are available.

Appellant submitted improved sales obtained from the Assessor's office. Appellant extracted a land value and divided it by the total amount of front feet to arrive at values between \$3,000 and \$3,887 per front foot. Appellant used the middle sale of \$3,443 per front foot and suggested a 50% reduction for "temporary" septic denied parcels, and an additional 10% reduction for permanent septic denied parcels. This approach supported the requested value of \$1,378 per front foot or a total value of \$122,974 for subject.

Respondent stated the original 2007 assessment for the subject parcel did not reflect the non-buildability of subject parcel. The Assessor recognized subject was located within the Southside Sewer moratorium and reduced the value by 50%, the same as all parcels within the moratorium area. This adjustment brought subject in line with sales that also have the same temporary negative influence.

Respondent's comparable waterfront sales ranged from \$2,250 to \$3,776 per front foot. The sales were not located in subject's immediate area and were not considered permanently non-buildable. All the sales were inferior in terms of beach quality, location, and waterfront. The subject property was assessed at \$2,300 per front foot.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho is a market value state for property tax purposes:

Idaho Code § 63-201(10)

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Respondent recognized subject is septic-denied so reduced the value an additional 50% in recognition of the limited use. In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979). In this case, however, Respondent did not consider sales with permanent non-buildability issues, similar to subject.

The important issue in this appeal is whether subject should be valued less than properties that suffer only temporary sewer restrictions. The Board believes so. Barring some unforeseen change in building codes, subject can never get sewer and therefore is permanently unbuildable.

Appellant suggested an extra 10% on top of the standard 50% reduction given to non-buildable parcels should be used. The Board agrees an additional 10% downward adjustment is reasonable.

The next question is which value should the 10% be taken from. Respondent's sales are not in subject's area. Appellant's sales are mostly improved parcels taken from the Assessor's data. Therefore, the Board finds a negative 10% adjustment should be taken off the current assessed value of \$205,321, which would yield a value of \$184,790. The decision of the Bonner County Board of Equalization is modified.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect a decrease to \$184,790.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 30, 2008